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ABSTRACT

This report is a summary of New York City's school decentralization law for the use of educational and community personnel. The New York City Office of Education Affairs of the Human Rights Administration (HRA) prepared and distributed the report as a public service in response to requests for explanation of the law. No editorial opinion was expressed, nor any attempt made to interpret unclear and ambiguous portions of the law. Where the language of any provision raises glaring questions, the summary calls attention to the problem and some different possible interpretations, but for the most part just sets forth what the law says. The report includes: (1) introduction; (2) background and transition provisions; (3) timetable; (4) nature and creation of new community school districts; (5) composition and election of new community and city school boards; (6) jurisdiction and authority of community and city school boards; (7) position and authority of the chancellor; and (8) provisions regarding special areas of responsibility including parent participation, finances, curriculum, construction, and teaching personnel. (DM)

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A Summary of the 1969 school decentralization law for new york city

Prepared as a public service
by
THE OFFICE OF EDUCATION AFFAIRS

As Passed by The New York Legislature April 30, 1969

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I. introduction

The following summary of New York City's new school decentralization law[1] was prepared by H.R.A.'s Office of Education Affairs with assistance from outside experts and attorneys. It is being distributed as a public service in response to many requests for explanation of the law.

To provide an accurate outline of the law's provisions, this summary is designed without editorial comment. No opinion is expressed on the merits of any provision.

There is also no attempt in this summary to interpret unclear portions of the law. While the law contains many ambiguities, it would be useless and misleading to suggest that these could be clarified here.

The meaning of the new law will be considered by many people—including the new city board and chancellor, community boards, parents, professional staff and others. These groups may disagree on correct interpretations of the law. Some of the issues will be worked out in practice. If not, they will be resolved through the courts or the state education commissioner, or possibly by legislative amendment.

In preparing this summary, the writers have therefore tried not to give any provision a meaning which is not plain from the language of the provision itself. In some cases, where the language raises glaring questions, the summary calls attention to the problem and to some different possible interpretations. For the most part it just sets forth what the law says.

We believe this approach has produced an accurate picture of the new decentralization law. With this information, New York citizens can begin to consider their new responsibilities for public education and the law's implications for the future of our city schools.

The summary was drafted by Jeanne Silver, attorney, of the O.E.A. staff. Grateful acknowledgement is made to the following for suggestions and comments on initial and subsequent drafts; John Forrer, Michele Catalano and Sally Streiter, Bureau of the Budget, the City of New York; David Barus, Esq.; Thomas Farrell, Esq.; Professor Howard I. Kalodner, New York University Law School; John Loflin, Esq., Office of the Corporation Counsel, City of New York; Sidney Nadel, Esq., Counsel, Board of Education, the City of New York; Professor Norman Redlich, New York University Law School; Paul Trachtenberg, Esq.; Larry Morrison and Harold Esannason, Office of Public Affairs, H.R.A., and the entire staff of the Office of Education Affairs.

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Director
Office of Education Affairs

[1] Bill No. S. 5690; A. 7175 (April 30, 1969). Certain technical amendments made in S. 5693; A. 7206 on May 1, 1969 are also reflected in the summary.

II.
background and transition provisions

Last year, in the Marchi Act, the legislature amended the state education law by changing the composition of the city board of education and modifying provisions regarding the status and functions of local school boards. The Marchi Act authorized the city board to delegate any or all of its powers to the local boards. Some powers were in fact delegated by the city board during the past year.

This year, the legislature passed a new law with the stated purpose to establish a "community school district system" in New York City. This new law provides for replacing the basic provisions of the Marchi Act on February 16, 1970. On that date a new amendment to the education law, known as "Article 52-A," will take effect.

Article 52-A redesigns the school system as of February 16. It creates a new system of elected community school boards and a new city board. The relationships between the city board and community boards are set forth in the act. The provision for delegation of powers is dropped.

Transition Provisions

The new law extends the Marchi Act until February 16, 1970. However, in May, 1969 the old city board was replaced under the new law's provisions, by a new "interim board" of five members, each member appointed by a different borough president. The interim board will serve as a transition from the old system to the new one.

From the date of its appointment until February 16, the interim board will have all the powers of the old city board. That includes the authority, given by the Marchi Act, to delegate powers or take them back from the present local school boards, subject to the approval of the Board of Regents. Meanwhile, the interim board will establish 30 to 33 new community school districts for the new system and administer the election of new community school boards.

"As soon as practicable" after May 20, the law states, the interim board will also appoint a chancellor. The chancellor will have the powers and duties of the city superintendent when the superintendent ceases to perform them. The chancellor will also have other functions under Article 52-A. In the period before Article 52-A takes effect, he will nevertheless assume those of such functions that are necessary to permit conversion to the new system. This first chancellor will serve for a term to end no later than 18 months after his appointment. He can be removed for cause.

On February 16, the new community school boards will take office, replacing the present local school boards and assuming the new powers of community school boards under Article 52-A. The city interim board will assume the powers which Article 52-A gives to the new city board. Meanwhile, the interim board will provide for the election on May 6, 1970 of five members of a new city board. Two more members will be appointed by the mayor elected in November, 1969. All seven will take office on July 1, 1970, replacing the interim board.

III. timetable

April 30, 1969	Effective date of new law; supervisors need no longer be selected from top three on eligible lists; terms of city board members then serving terminate, although members continue to serve until appointment of interim board.
May 20, 1969	Interim board is appointed and succeeds to powers and duties of existing city board.
"As soon as practicable" after interim board's appointment	Interim board appoints chancellor.
November 17, 1969	Interim board publishes tentative districting plan.
December 1 through 12, 1969	Public hearing or hearings on tentative districting plan.
December 22, 1969	Last date for publication of final districting plan.
January 1 through 16, 1970	Registration of voters for election of community board members.
January 18, 1970	Due date for nominating petitions for community board elections.
January 22, 1970	Date by which community board candidates must apply to board of elections to have watchers at the polls and during the ballot counting.
January 27, 1970	Election of first community boards.
February 2 through 16, 1970	Chancellor provides orientation sessions for community board members.
February 16, 1970	Effective date of new Article 52-A of the education law (other than provisions re determining the new districts and electing community board members, which take effect immediately); Marchi Act extension expires; interim board acquires all the powers and duties devolved by Article 52-A on the new city board; terms of first community board members begin; terms of appointed local school board members end; community boards acquire jurisdiction over all public schools and programs in their districts (through junior high school).

April 17, 1970	Deadline for transfer to community boards of appropriate personnel or determination by central board to retain them.
April or May, 1970	First annual comprehensive reading exam administered to all pupils to identify low-score schools eligible for special hiring in 1971-72 school year.
May 6, 1970	Election of five members of new city board.
June 1, 1970	Deadline for mayor to appoint two additional members of new city board.
July 1, 1970	New city board takes office.
Before October 1, 1970	Chancellor must rank schools on comprehensive reading exam for purpose of special hiring provisions.
October 1, 1970 through April 30, 1970	Community boards may recruit and appoint teachers for low-reading score ("eligible") schools for 1971-72 school year.
April 30, 1971	Latest possible date of expiration of first chancellor's term (it will expire earlier if and when he has served for a period of 18 months).
1971	First year city board may (but need not) make adjustments in districting.
February 16, 1973	First date city board, in its discretion, may transfer any academic, vocational or comprehensive high school to the community board in whose district it is located.
May 1, 1973 and every two years thereafter	Dates of succeeding elections of community boards.
June 30, 1973	End of terms of first elected city board members. End of terms of first elected community board members.
June, 1974	End of terms of first appointed city board members.

IV.
nature and creation of new community school districts

A. Size and Number of Districts

There will be no more than 33 and no fewer than 30 community districts. None of these may contain fewer than 20,000 elementary and junior high school pupils in "average daily attendance."[1]

Five of the present local school districts (Districts 1, 2, 3, 5—Manhattan; 24—Queens) have average daily attendance of less than 20,000. Four others (Districts 13, 15—Brooklyn; 23, 26—Queens) are close with less than 22,000. Thus, although the districting provisions do not require abandonment of all the present 30 districts, some boundaries will certainly have to be changed. And the three demonstration districts will be discontinued in their present form as local school districts after the effective date of redistricting, February 16, 1970.

B. Criteria for Districting

In drawing the districts, the interim board must observe specified criteria, including:

(i) suitable size for efficiency,
(ii) convenient location for pupil attendance,
(iii) "reasonable" number of pupils, and
(iv) "heterogeneity" (ethnic and socio-economic mixture) of pupil population.

In following these criteria, the board must also take account, the law states, of the "common and special educational needs of the communities and children involved," as well as transportation facilities and existing and planned school facilities.

Another criterion the board must observe is "relationship" to geographic areas (such as health districts) for which the city provides services.

C. Timetable for Districting

The interim board must create the new districts by December 22, 1969. It must publish a tentative plan on November 17. It must hold at least one public hearing on the tentative plan between December 1 and December 12.

Once the districts are established, they may not be changed except once in every odd year; thus the lines drawn next December are to remain until at least 1971.

[1] Since attendance is always less than enrollment, this means that as a practical matter, each district must have an enrollment of at least 22,000 to 24,000 pupils in schools under its jurisdiction.

V.
composition and election of new community school boards

A. Size and Composition

Each community school district will have a community board of seven to 15 members. Members will be elected for two-year, unstaggered terms by those in their respective districts eligible to vote. The members will serve without compensation. The interim board will decide the exact number of community board members for each district when it determines the district boundaries.

B. Qualifications of Voters

All registered voters in a district will be eligible to

vote for the community board.

In addition, all parents of students attending schools under the jurisdiction of a community board will be eligible if they are citizens of New York State, have resided in New York City for the 90 days prior to the election, are at least 21, and are registered to vote in the board election.

However, no one may vote in more than one district; thus anyone eligible to vote in one district with a child at school in one or more other districts will have to choose in which district he will vote.

C. Qualifications of Community Board Members

Anyone eligible to vote for a community board in any district, except an employee of the district, is eligible to be a board member in that district. However, no one may serve on more than one community board at one time.

D. Nominations

Candidates must be nominated by petitions signed by 300 persons eligible to vote. For the first elections, on January 27, 1970, petitions must be signed and filed by January 18, nine days before the election. Petitions for this election may not be circulated until late December, 1969, at a date to be announced.

E. System for Electing Community Board Members

Members of community boards will be elected by proportional representation. Under the system set forth in the law, each voter will cast a single ballot on which all candidates will be listed. The voter will number as many candidates as he wishes in order of preference. To be elected, a candidate will need only a minimum quota. The quotas will vary among the districts depending on the numbers of positions to be filled and votes cast, but they will be the same for each candidate within the same district. The quota is roughly the total number of ballots cast divided by the number of seats to be filled. (For example, if there were to be ten members on a community board, a successful candidate would need a little under 1/10 of the votes cast.)

Any candidate who receives enough first choice votes to meet the quota will be elected. However, all members elected will not have to meet their quota with first choice votes. Under the counting procedure, ballots cast for candidates who receive more than the quota or too few votes to be elected will be distributed to the unelected candidates named on them as second, third or later choices, so that candidates with relatively small support can also be elected, by the combination of first and later-choice votes.

The counting system will be uniform and systematic:

First, all the first choice votes will be counted. All candidates who reach the quota will be declared elected.

Then all "extra" ballots for each elected candidate (those above the quota) will be distributed to the unelected candidate named as next choice on each. If as a result of this process, additional candidates receive enough first and subsequent choice votes to meet the quota, they too will be declared elected.

Unless the full number of board members has now been chosen, any "extra" ballots to the credit of these newly elected candidates will be distributed to the unelected candidates named as next choice on those extra ballots.

This process of transferring extra ballots from elected candidates to next choices will be repeated until either, (i) the addition of transferred votes fails to add a sufficient number to any candidate's tally to elect him, or (ii) a sufficient number of candidates have been elected to make up the full board.

If the above process stops before a sufficient number of board members have been elected, the counters will turn to the candidates who have the lowest numbers of total ballots (including first choice votes for them and ballots naming them as later choices which were transferred to them in the prior counting).

First, all candidates with less than 300 total ballots will be declared defeated. Their ballots will be distributed to the unelected candidate named as next choice on each. If this process elects some additional candidates without filling the board, extra ballots of the newly elected candidates will be distributed to the next choices on them. If such distribution still does not elect enough candidates to fill the board, the unelected candidate with the lowest number of ballots to his credit will also be declared defeated. All his ballots, too, will be distributed to the unelected candidate named as next choice on each.

These processes will be repeated, distributing the extra ballots of any candidates elected and then dropping the lowest candidate and distributing all his ballots, until sufficient candidates have been elected to fill the board.

By application of this system of transferring the extra ballots of elected and defeated candidates to later choices named on them, virtually every voter's ballot will help someone get elected, even if it is only the voter's second, third or later choice. Small groups in a district will have a chance to be represented, roughly in proportion to their voting strength in the district, if they nominate a reasonable number of candidates and get their supporters out to vote.

F. Supervision of Community Board Elections

In general, the board of elections will manage and supervise registration, nomination procedures, election procedures and counting. The interim board, however, must provide for the first registration of voters between January 2 through 16, 1970. The elections will be held on January 27, 1970.

VI.
composition and selection of city board

Members of the seven-member city board will be paid such compensation "as may be provided" by the city council.[1] Two members, appointed by the mayor, will serve four-year terms, beginning July 1, 1970. The first group of members elected from each of the five boroughs in May, 1970 will serve from July 1, 1970 until June 30, 1973. The law does not make clear whether members elected for terms beginning after June 30, 1973 will serve two or four years.

[1] The act also specifies that the compensation of members of the interim board shall be provided by local law. Shortly before the members of the interim board were appointed, the city council decided that they should receive $100 for each day worked.

The law says the elected members "shall be chosen by the voters of each county." It is unclear whether this means that only voters registered to vote in general elections are eligible to vote for members of the city board, or whether the "voters" referred to here also include the parents who are qualified under the provisions of the law to vote for community school boards.

Elected members must be nominated by petition of 1,000 persons qualified to vote in the city board elections. The law sets forth no other qualifications for elected members or for the mayor's appointees.

The chairman of the board will be chosen by the members.

VII.
jurisdiction and authority of community boards

A. Jurisdiction

Starting February 16, 1970, each community board will have jurisdiction over public schools and programs in its district from the pre-kindergarten through junior high school level.

This jurisdiction will include all school and school-connected programs, except for certain programs over which jurisdiction is reserved to the chancellor. The programs reserved to the chancellor are existing special education services (such as programs for the handicapped, etc.) and programs which regularly service a substantial number of persons from more than one community district. However, the chancellor is required to consult with an affected community board before expanding, reducing or starting any of these programs under his authority. Moreover, a community board may also operate programs that would provide services similar to the services offered in city-wide programs.

B. General Grant of Powers and Duties

Regarding the programs under the jurisdiction of the community boards, Article 52-A provides that the boards shall have all the powers and duties previously possessed by the city board, and the powers and duties that had been delegated to local boards under the Marchi Act as of February 16, 1970. Some but not all of these powers are specifically listed. However, at least the powers not specifically listed, are granted only insofar as they are "not inconsistent with the provisions of this article and the policies established by the city board."

Elsewhere, Article 52-A gives the city board, "except as otherwise provided," responsibility to "determine all policies of the city district." It also contains many provisions that specifically grant to the city board and the chancellor the right to exercise or approve community board exercise of some of the old

city board's powers in certain areas. (These provisions are discussed below in sections of this summary dealing with the city board (VIII), the chancellor (IX), and provisions of the law regarding special areas of responsibility (X).)

In addition, unclear language makes it possible that broad grants of power to the city board in the law would be interpreted to give the city board a final veto over any community board actions if the city board chose to exercise it. If the central authorities asserted such power, the question of whether this was authorized by the law could be decided finally by the state education commissioner, the courts or legislative amendment.

C. Powers and Duties in Special Areas

The law particularly sets forth the powers and duties of the community boards, and express limitations on those powers and duties, in the areas of *Curriculum, Textbooks, and Evaluation; Teaching and Supervisory Personnel; Expense Budget and Fiscal Management; Planning and Construction of Capital Projects; Maintenance and Repair; Parent Participation*. These powers and their limits are described in appropriate subdivisions of section X of this summary, "Provisions of the Law Regarding Special Areas of Responsibility."

D. Other Enumerated Powers

The community boards are expressly given power to:

(i) Employ a community superintendent, by two to four year contract, at a salary fixed in the community board budget. The community superintendent shall be subject to the community board's lawful direction and can be removed by it for cause. The only qualifications specified are minimum education and experience requirements (not less than state certification requirements) to be established by the chancellor.

(ii) Delegate any of their powers, other than policy making and other discretionary powers, to the community superintendent.

(iii) "Generally manage and operate" the schools and facilities under their jurisdiction.

(iv) Operate social centers and recreational and extra-curricular programs.

(v) Operate cafeteria or restaurant services for pupils and teachers.

(vi) Maintain discipline in the schools and programs under their jurisdiction.

(vii) Appoint teacher-aides for the schools and programs under their jurisdiction within budgetary allocations.

(viii) Employ or retain private counsel to provide advice and to represent them in all actions and proceedings between them and the city board or other community boards.

VIII. jurisdiction and authority of city board

A. General Jurisdiction and Authority

After February 16, 1970, the interim board, and later the city board when it takes office, will have all the powers of the old city board and shall determine all policies of the city district "except as otherwise provided" in Article 52-A. This provision plainly gives the city board full authority over schools and programs not within community board jurisdiction (i.e., high schools, special programs and programs of city-wide application), as well as the administration of activities of the city board of education, except as those powers may be expressly limited by other provisions of Article 52-A (for example, independent duties of the chancellor, rights of community boards to be consulted, etc.). The question whether this provision also gives the city board a veto over community board actions in matters under their jurisdiction was noted above in the section of this summary on community board authority.

B. Powers and Duties in Special Areas

As in the case of the community boards, the law particularly sets forth the powers of the city board in certain areas. These areas include *Enforcement of Compliance with Law by Community Boards; High Schools; Curriculum, Textbooks and Evaluation; Teaching and Supervisory Personnel; Expense Budget Preparation and Fiscal Management; Planning and Construction of Capital Projects; Maintenance and Repair*. The city board's powers in these areas are summarized below in appropriate subdivisions of section X of this summary, "Provisions of the Law Regarding Special Areas of Responsibility."

C. Additional Powers

Apart from its powers and duties in the areas mentioned above, the city board is expressly given the additional powers and duties to:

(i) Hold public hearings on any matter related to the educational welfare of the city school system.

(ii) Be the "government" or "public employer" of all employees of the city board and community boards and negotiate and execute union contracts with employees; however, it must establish "formal procedures" under which the chancellor will consult with community boards on union contract negotiations which affect their interests. (The law provides that union contracts in effect on February 16, 1970, and future union contracts shall be binding on the city board and community boards.)

(iii) Require the chancellor to prepare an annual report of the affairs of the city school system.

(iv) Require community boards to make periodic reports.

IX. position and authority of chancellor

A. Conditions of Employment

The chancellor will be employed by the city board at a salary to be fixed by the city board. The chancellor will be subject to removal for cause. The first chancellor will serve a term of not more than 18 months; future chancellors will be appointed on two to four year contracts.

B. General Authority

The chancellor is the chief administrator, in the new system, not only of programs not vested in community boards but also of the relationship between the city board and community boards. Among other things, he will acquire all the powers of the present superintendent, except as otherwise provided in Article 52-A. He will also acquire many of the powers and responsibilities formerly held by the board of education. He must exercise all his powers and duties in a manner not inconsistent with the policies of the city board. But only in some cases does the law state that his actions require prior city board approval. (These cases are identified in the specific discussions below of the chancellor's powers.)

C. Operational Responsibilities

The chancellor will control and operate the high schools subject to conditions which are set forth below under the heading "High Schools." He will control and operate city-wide special education programs, subject to conditions set forth in the section above on "Jurisdiction and Authority of Community Boards."

D. Powers and Duties in Special Areas

The law sets forth certain responsibilities of the chancellor, and limits on his powers, in the areas of *Enforcement of Compliance with Law by Community Boards; High Schools; Curriculum, Textbooks and Evaluation; Teaching and Supervisory Personnel; Expense Budget Preparation and Fiscal Management; Planning and Construction of Capital Projects; Maintenance and Repair; Parent Participation.* These are set forth below in the appropriate subdivisions of section X of this summary, "Provisions of the Law Regarding Special Areas of Responsibility."

E. Additional Powers and Duties

Apart from his responsibilities in the areas listed above, the chancellor has the additional powers and duties to:

(i) Appoint teacher-aides for schools and programs under his jurisdiction, within budget allocations.

(ii) Employ or retain counsel, subject to the powers and duties of the corporation counsel of New York City to be his attorney pursuant to the City Charter.

(iii) Continue existing voluntary open enrollment programs between community districts or establish new such programs.

(iv) Provide training sessions for community board members, including orientation sessions during the two weeks before their terms begin.

(v) Provide, throughout the city system, technical assistance to community boards, regional warehouse space and purchasing services; however, he may agree that such functions shall be performed by a community board for schools and programs under its jurisdiction.

(vi) Develop and furnish pre-service and in-service training for employees throughout the system.

(vii) Promulgate rules and regulations to carry out the purposes of Article 52-A.

(viii) Possess the powers at present granted to the

city board of education under section 2554 of the state education law (the section setting forth most of the powers of the old city board), as well as powers set forth in certain other sections of the state education law and the City Charter.

(ix) Ensure compliance with all personnel qualifications.

(x) Delegate such powers and duties to subordinate officers as he deems appropriate.

(xi) Establish uniform pupil and other record-keeping procedures throughout the school system.

(xii) Perform the functions of the bureau of audit of the board of education throughout the city school district.

X.
provisions of the law regarding special areas of responsibility

A. Provisions Regarding Enforcement of Compliance with Law by Community Boards

1. Proceedings by the Chancellor

The chancellor will have power to initiate proceedings to enforce compliance by community boards and their members with applicable provisions of law, by-laws, rules or regulations, directives and agreements. If a dispute arises, he must first attempt conciliation. If these efforts fail, he may issue an order requiring a board to cease improper conduct or take required action.

In a case of non-compliance with his order, the chancellor may issue a further order to a community board, either assuming certain of its functions (by himself or through a trustee), or suspending or removing the board or any one or more of its members.

2. Appeals

Within 15 days of the issuance of an order against it, a community board may file an appeal with the city board. The entire city board may hear the appeal, or the chairman may designate a panel of three board members. The city board or panel shall comply with regulations of the state education commissioner in hearing such appeals.

Pending decision of an appeal, the city board may temporarily stay enforcement of the order of the chancellor on appeal or it may stay any action of the community board inconsistent with such order.

The city board or appeal panel may either affirm the chancellor's order, deciding in his favor, or reverse his order, deciding for the involved community board or board member. In either case, the losing party may appeal to the state education commissioner or take the matter to the courts.

B. Provisions Regarding High Schools

For at least three years after the effective date of the new system (that is, until February 16, 1973), the chancellor will control and operate all senior high schools in a manner "not inconsistent with" city board policies. To the extent practicable, he will establish a parents' or parent-teachers' association in each such school.

Prior to February 16, 1973, and subject to the approval of the city board, the chancellor must also "develop a plan" for the establishment of at least one comprehensive high school within the boundaries of each community district. Any time thereafter, the city board, after considering the public interest, may transfer any academic, vocational or comprehensive high school to the jurisdiction of the community board in whose community district that high school is located.

Any time before or after February 16, 1973, the city board may enter into a contract or contracts with the City University under which the University would administer up to five of the high schools under the city board's jurisdiction. The city school district will continue to receive at least the same apportionment of state public school moneys it would otherwise receive for any such schools, which must be selected from among the city's most disadvantaged. The contracts could not permissibly delegate power to appoint or discharge school employees.

C. Provisions Regarding Curriculum, Textbooks and Evaluation in Schools Under Jurisdiction of Community Boards

The community boards will determine matters relating to instruction of students and will select textbooks and instructional materials, subject to the following condtions:

1. Textbooks and instructional materials must first

be approved by the chancellor.

2. With the city board's approval the chancellor must promulgate minimum educational standards and curriculum requirements for all schools and programs. He must periodically examine all schools and programs and report to the city board, the community boards and the public on maintenance of these minimums. He also must report his evaluation of the educational effectiveness of such schools and programs. And he must require each community board to make an annual report on matters within its jurisdiction, including but not limited to the educational effectiveness of its schools and programs.

(As in all his actions, the chancellor must exercise his above powers in accordance with policies of the city board.)

D. Provisions Regarding Teaching and Supervisory Personnel

1. Transition to Community System

Within 60 days after February 16, 1970, the interim board, acting through the chancellor, will transfer to each community board authority over all city district employees serving in or in connection with schools and programs under that community board's jurisdiction. All employees serving in or in connection with programs which continue under central jurisdiction will be retained. The interim board acting through the chancellor can either transfer to appropriate community boards or retain other city district employees.

2. Titles of Positions

The chancellor, acting with the city board's approval, will have the sole power to create and abolish the titles of all positions in the teaching and supervisory service.

3. Hiring and Assignment

There are two hiring and assignment processes: one is a basic method which applies uniformly for teaching and supervisory personnel. The other is an alternate method for hiring teachers only, which community boards may employ under certain circumstances.

a. Basic Method

(1) Qualifications of Candidates

All candidates hired will have to meet minimum education and experience requirements established by the chancellor. These may not be less than state certification requirements.

All such candidates, except candidates for position of chancellor; executive-deputy, deputy and assistant superintendent; and community superintendent, will also have to be examined and placed on eligible lists by the board of examiners.[1]

As at present, candidates for teaching positions who pass the examinations will become eligible for employment in order of rank provided that any of the top three on a list may be chosen to fill a vacancy. However, if there were a shortage of teachers, as has generally been the case in recent years, the rankings would not be significant because all eligible teachers would be employed.

[1] The board of examiners is continued in substantially its present form. However, the new law apparently permits the chancellor to serve as a member. It also provides that the chairman shall be chosen (from members other than the chancellor) on a rotating rather than the elected basis for which the law now provides. In addition, it provides that the temporary assistants whom the board of examiners now employs in its exclusive discretion to assist in administering examinations will have to be nominated or approved by the chancellor or a community superintendent.

Rankings of candidates for supervisory positions are abolished by the law. Therefore, all supervisory candidates who pass examinations in their respective categories will be equally eligible to fill vacancies.

The law expressly requires that all persons whose names appear on the present eligible list for elementary school principal must be appointed before April 1, 1970. Since the number of names on this list substantially exceeds the number of principalship vacancies in elementary schools, this means that some persons named on the list will be appointed to fill other types of jobs, but with the rank (including pay, benefits, etc.) of elementary school principal. It is not clear whether such persons would have any priority to be considered for actual principalship vacancies which might occur after April 1.

Other current eligible lists which exist for some teaching and supervisory positions will continue in effect, most of them until four years from the dates they were established; however, the existing list for assistant elementary school principal, established in December, 1965, has been extended to December, 1973.

(2) Appointment and Assignment

The chancellor will appoint and assign from appropriate eligible lists all teachers and supervisors for programs under the jurisdiction of the city board.

Teachers for schools under community board jurisdiction, drawn from appropriate eligible lists, will be assigned to the community districts by the chancellor. "Insofar as practicable," the chancellor will have to honor community board requests for assignment of specific persons. Within three to thirty days (depending on the effective date of the appointment), a community board must appoint the teachers assigned to its district and assign them to schools.

The community boards will appoint and assign supervisory personnel for their districts directly from appropriate eligible lists.

b. Alternate Method of Hiring for Teaching Positions

This method may be used by a community board annually between October 1 and May 1, only, any

year after February 16, 1970, to obtain personnel for the following September for any school which is ranked in the bottom 45% (40% in the first year of operation) on a city-wide reading test to be given annually by the chancellor. (The first such test pursuant to the law's provisions will be given in April, 1970, and the first recruiting period based on rankings on such a test will be October 1, 1970 to May 1, 1971 for the 1971-72 school year.)

This method may also be used by a district at any time for any school if a vacancy exists for a teaching position and there are no names on an appropriate eligible list.

Under this method, community boards will be able directly to recruit and appoint to teaching positions —without regard to competitive eligibility lists—anyone who, by the effective date of appointment will (1) have met state certification requirements, and (2) have

(a) attained a place on an eligibility list or passed an equivalent qualifying examination, *or*

(b) passed the National Teachers Examination (NTE) within the past four years at a pass mark equivalent to the average pass mark required of teachers during the prior year in the five largest cities using the NTE as a qualification.

4. Promotion

The city board and community boards will promote members of their respective staffs provided that in doing so, they comply with applicable law and provisions of union contracts. Current employees of the system will retain their tenure or credit toward tenure whether they are retained by the interim board as city board employees or transferred to community boards pursuant to the law. Any person employed by the city board or a community board in the future after having been employed by any other board in the city system will also retain, in the new position, the same probationary or tenure rights accumulated in the old.

5. Disciplinary Proceedings

The chancellor and city board will retain the power to discipline city board employees. In so doing, they will continue to be bound by existing due process requirements, such as the right of tenured employees not to be dismissed without hearings and appeals as provided by law.

The new law gives the community boards the power to discipline their own employees and subjects the boards to specific due process requirements. Community boards will be able to impose penalties on tenured employees or dismiss them or transfer them within the district for reasons specified in the law after trial on charges initiated by the community superintendent. Trials will proceed before examiners selected by the community boards from a panel maintained by the chancellor. Upon a community superintendent's recommendation, the chancellor will have power to temporarily suspend an employee for not more than 90 days pending determination of his case. Decisions of trial examiners will be reviewed by the community boards involved. The community board decisions can be appealed by the employees to the city board. City board decisions will be final, subject to any applicable arbitration provision in a union contract or allowable review by the state education commissioner, or the courts.

6. Intra-District Transfers

Community superintendents may transfer members of the teaching and supervisory staffs within the district without their consent only for the following reasons:

(a) disciplinary action following hearings on charges as set forth above, or

(b) excess staff in a specific school, or

(c) to staff a new school, or

(d) to fill a vacancy in another school if no other qualified person is available within the district or is on an appropriate eligible list, and if the school to which the transfer is made will still have a higher number of vacant positions than the school from which transfer is made.

Transfers because of excess staff and to provide staff for new schools must be made in accordance with applicable union contract provisions, including those governing accumulation of credits toward desired transfers, right to hardship transfers and rights to retain assignments in certain schools.

7. Inter-District Transfer

Community boards do not have authority to transfer personnel out of their districts.

E. Provisions Regarding Expense Budget and Fiscal Management

1. City Budget Request

The community boards will hold public hearings and submit budget estimates for their activities to the chancellor. The chancellor may modify these after consulting with the community superintendents, who will act under direction of their respective boards. The chancellor will then incorporate these estimates, with an estimate for city board activities, in a consolidated budget for the city system. The consolidated budget will set forth the total amounts requested for programs of the community boards separately from those requested for the city board. The requests for city board activities may include a special unit of appropriation to finance innovative programs by community boards.

Following public hearing and city board approval, the consolidated budget estimate will be submitted in the normal city budget process to the mayor, and following any modification by the mayor, to the board

of estimate and city council. The consolidated budget estimate will be accompanied by the original and any modified community board requests.

2. **Allocation of General Funds**

The chancellor, acting for the city board, will allocate among community boards the general funds for schools and programs under their respective jurisdictions. He will employ objective formulas established annually by the city board in consultation with the chancellor, the community boards and the mayor. These will take account of relative educational need to the maximum extent feasible. The chancellor may also make special allocations from appropriate funds of the city board to any community board for special needs or innovative programs.

3. **Budget Management**

In consultation with community boards and subject to the mayor's approval, the chancellor will develop procedures for the establishment and modification by community boards of annual schedules for expenditure of appropriated funds. To the maximum extent feasible these procedures will enable the community boards to establish and change such schedules without prior approval, subject to regulations which the chancellor or budget director will establish to assure community board compliance with legal and fiscal requirements. However, changes involving transfer of funds available for personal services of teaching or supervisory personnel will require the chancellor's approval.

4. **Special Funds**

Community boards will be able to contract directly for private funds. Such funds may be used for special programs but not to eliminate existing positions or employees.

With respect to most federal and state funds not allocated to the city district on a formula basis, community boards will be able to apply for funding directly as local educational agencies.

Community boards will not be able to apply as the local educational agencies for state and federal funds distributed to the city on a formula basis (chiefly Title I and state Urban Education funds). But they will be able to submit proposals to the chancellor, for prompt transmittal by him to the agency providing the funds, after he reviews only the form of the proposal. Each community board will be limited in the total dollar amount of its proposals for such funds by an apportionment among community boards, according to a formula reflecting the same educational and economic factors as those that determine the formula for apportionment of such funds to the city district as a whole.

Community boards will also be required to consult on a continuing basis with non-public school authorities in regard to funds provided for programs for non-public school students. The chancellor must ensure compliance with laws and rules regarding programs for non-public school students.

5. **Custody and Disbursement of Funds**

The city treasury will have custody of funds of the city board and each community board and will credit them to the particular boards. Such funds will be disbursed only on written orders of the city finance director. Except in the case of fixed obligations or amounts coming due on contracts, orders for disbursement of city board funds must initially be signed by the chancellor or other authorized city board official, and orders for disbursement of funds of community boards must initially be signed by their respective community superintendents or other officers authorized by the respective boards.

In the case of funds contracted for by community boards, it is unclear whether they may be disbursed upon the signature of appropriate community board officials or whether orders for disbursement of such funds must bear the signature of the chancellor.

F. **Provisions Regarding Planning and Construction of Capital Projects**

1. **Capital Budget**

The city board, through the chancellor, will be responsible for submitting a capital budget for construction, remodeling and enlargement of all school system facilities to the city planning commission. The budget will be acted upon by the offices of the mayor, the board of estimate and the city council in the usual city capital budget process. However, the community boards will have the power and duty, after public hearing, to submit to the chancellor proposals for schools within their jurisdictions. They will also have the power and duty to submit proposals with respect to the capital budget directly to the mayor, board of estimate, city council and planning commission.

2. **Construction**

The city board, through the chancellor acting with its approval, will also retain responsibility and control over capital construction, subject to the duties and authority of other city agencies. It will continue to employ all personnel required for construction and design. However, the new law gives community boards specific powers and duties in connection with site selection and design and construction of facilities which will be under their jurisdiction. These powers and duties of the community boards include the following:

(i) To select proposed sites for submission to the city site selection board.

(ii) To be consulted by the chancellor on determining plan requirements.

(iii) To place "qualified" architects on a panel to be established by the city board and to be

consulted by the city board in establishing the qualifications for placement on the panel.

(iv) To select the architects for particular projects from among several on the panel proposed by the city board and to work directly with them.

(v) To review preliminary architectural plans and recommend to the chancellor their approval, rejection or modification.

(vi) To be consulted by the chancellor on establishing standards for qualification of bidders on projects over $25,000.

(vii) To employ or assign personnel to assist the chancellor in obtaining approvals necessary to expedite completion.

G. Provisions Regarding Maintenance and Repairs

1. Custodians

The city board, acting through the chancellor, will retain general responsibility for the care, custody and control of school property. Custodians will be employed by the city board (also acting through the chancellor) but will be responsible for performance of their duties to school principals, who shall be responsible to their community superintendents in this respect.

2. Repairs

The law provides that the chancellor will retain jurisdiction over all employees required in connection with "operation and maintenance" of all school buildings. It also provides that the community boards may make repairs to property under their jurisdiction.

A community board will not be able to spend more than $250,000 for repairs in a fiscal year without special authorization from the chancellor. Repairs within or without this limit involving expenditure of more than $2,500 must be obtained by community districts on contracts let to the lowest responsible bidder.

H. Provisions Regarding Parent Participation

1. Provisions Affecting Community Boards

Each community board must adopt by-laws requiring that:

(i) There be a parents' association (PA) or parent-teachers' association (PTA) in each of its schools, and,

(ii) The board, the community superintendent and the principal of each school have regular communication with all the PA's or PTA's to the end that they are provided with full facts pertaining to matters of pupil achievement, provided that records and scores not be disclosed in a manner which will identify individual pupils.

2. Provisions Affecting City Board

The chancellor shall establish a PA or PTA in each school under his jurisdiction "to the extent practicable."

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